

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0185V

Filed: February 27, 2018

UNPUBLISHED

M.B., on behalf of Y.M.B., a minor child,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU); Ruling on Entitlement; Concession; Table Injury; Diphtheria, Tetanus, acellular Pertussis (DTaP) Vaccine; Encephalopathy

*Anne Carrion Toale, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.  
Glenn Alexander MacLeod, U.S. Department of Justice, Washington, DC, for respondent.*

## RULING ON ENTITLEMENT<sup>1</sup>

**Dorsey**, Chief Special Master:

On February 8, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that his minor child, Y.M.B. suffered fever, status epilepticus, and acute encephalitis causally related to an adverse reaction to vaccinations she received on October 7, 2015. Petition at ¶¶ 2, 10, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

<sup>1</sup> When this ruling was originally issued, petitioner was informed that the ruling would be posted on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). Petitioner was notified that she could seek redaction pursuant to 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b). During a March 8, 2018 status conference with the undersigned, petitioner moved for redaction of the adult petitioner’s name to initials only for this ruling and all future filings. The undersigned granted petitioner’s motion. (ECF No. 31). Petitioner’s name has been replaced with his initials in this ruling, and the caption of this case has been amended to reflect this change.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On February 23, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1-2. Specifically, respondent "concludes that YMB meets the statutory criteria for having suffered a Table encephalopathy following DTaP vaccine, and that there is not a preponderance of evidence that the encephalopathy was due to factors unrelated to the vaccination." *Id.* at 5 (footnote omitted).

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.  
IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master